

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

RAFAEL ASHWORTH,)

Defendant.)

Criminal Case No. 19-CR-10477-MLW

DEFENDANT'S SENTENCING MEMORANDUM

Rafael Ashworth was indicted by a Norfolk County Grand Jury on January 11, 2019 on a charge of possession with intent to distribute Class E. He was released on bail. The defendant was charged with possession with the intent to distribute 40 grams or more of fentanyl and 50 grams or more of methamphetamine. On November 21, 2019 a complaint was filed. On December 12, 2019 the defendant was brought before Hon. Donald Cabell for an initial appearance.¹ He was habed in from the Dedham House of Correction. Mr. Ashworth was represented by Attorney Brendan Kelley in appearance before Magistrate Cabell. The docket reflects that due to the defendant being in state custody "the parties agreed to a United States vs. King order." The defendant was then returned to the Dedham House of Correction where he remains to this day.

A copy of the docket of United States vs. Ashworth and Commonwealth vs. Ashworth are annexed hereto as Exhibit A and B respectively.

¹ The defendant was being held in state custody on a revocation of bail due to his arrest on the overdose case.

The defendant never was sentenced on the Norfolk County case and expects a probationary term. As the Court knows at the time of sentencing the defendant requested credit on the sentence the Court imposed since the federal detainer was lodged and the defendant was held in federal custody.²

The Court is aware of the United States vs. King, 818 F2 112 (1st Cir. 1987) case and the order entered by the magistrate judge. The King order pertains to the Title 18 U.S.C. §3142(i) and the detention order that must be entered in at the preliminary hearing. In the event the parties agree the defendant may continue to be held with a federal detainer while in state custody. In this case, it is readily apparent that the defendant was held since the King order was entered. To deny him credit for the time he has been held awaiting trial pursuant to the King order would be totally unfair and an obvious violation of due process since the time has not been applied to any state sentence.

The defendant therefore respectfully requests that he be credited with the time he as been held pursuant to the King order to insure that cruel and unusual treatment not be imposed by denying him the credit per the presentence report from December 12, 2019 to the present.

Rafael Ashworth,
By his attorney

/s/Kevin J. Reddington, Esq.

² On November 21, 2019, the same day as the complaint was filed in this case the United States Attorney's Office issued a press release noting that "Ashworth was arrested by state authorities on November 17, 2019. He is currently in federal custody."

CERTIFICATE OF SERVICE

I, Kevin J. Reddington, Esq., Attorney for the Defendant, Rafael Ashworth Barros, hereby certify that the following documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on July 12, 2024.

DEFENDANT'S SENTENCING MEMORANDUM

/s/Kevin J. Reddington, Esq.